

1 Fletcher Hartwell Hyler, in propria persona
 2 Sheryl Root Hyler, in propria persona
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FILED
 JUL 29 AM 9:03
 RICHARD W. BRICKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

6 UNITED STATES DISTRICT COURT

7 NORTHERN DISTRICT OF CALIFORNIA

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 10 FLETCHER HARTWELL HYLER AND) Case No.: A07-CV-03180 WHA
 11 SHERYL ROOT HYLER,)
 Plaintiff,) CORRECTED EXHIBIT "I" TO
 12 vs.) REQUEST FOR TAKING OF JUDICIAL
 13 INVESTMENT GRADE LOANS, INC., ET) NOTICE IN SUPPORT OF PLAINTIFF'S
 14 AL.,,) F.R.C.P. 60(b)(3) MOTION TO SET
 15 Defendant) ASIDE JUDGMENT AND SETTLEMENT
) AGREEMENT FRAUD,
) MISREPRESENTATION AND
) MISCONDUCT BY OPPOSING PARTY
 16) DATE: August 28, 2008
) TIME: 8:00 A.M.
 DEPT.: 9

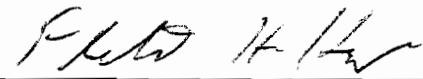
17 COME NOW Plaintiffs Fletcher Hartwell Hyler and Sheryl Root Hyler, and, pursuant to Federal
 18 Rule of Evidence § 201, hereby request that this Court take judicial notice of the following
 19 documents, true and correct copies of which are attached hereto as Exhibits:

20 I. Stipulation and Agreement dated August 3, 2007 (signed July 1, 2007) in the Matter of
 21 the Accusation of Gary A. Bowers, and Andrew A. Lewis.

22 Due to a clerical or equipment error, page 3 of Exhibit I to the original **REQUEST FOR**
 23 **TAKING OF JUDICIAL NOTICE IN SUPPORT OF PLAINTIFF'S F.R.C.P. 60(b)(3)**
 24 **MOTION TO SET ASIDE JUDGMENT AND SETTLEMENT AGREEMENT FRAUD,**
 25 **MISREPRESENTATION AND MISCONDUCT BY OPPOSING PARTY**, filed with this

1 Court in the above-captioned matter on July 22, 2008, photocopied as a blank page. Plaintiffs
2 hereby request that the copy attached hereto be substituted for the original Exhibit "I".
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Dated: 7/29/08


Fletcher Hartwell Hyler

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EXHIBIT I

FILED

AUG 03 2007

DEPARTMENT OF REAL ESTATE

By J. Rich

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000

3 Telephone: (916) 227-0789

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BEFORE THE DEPARTMENT OF REAL ESTATE

9

STATE OF CALIFORNIA

10

* * *

11 In the Matter of the Accusation of)
12) NO. H-9724 SF
13 GARY R. BOWERS, and)
14 ANDREW A. LEWIS,) STIPULATION AND AGREEMENT
15 Respondents.)
16 _____)

17 It is hereby stipulated by and between Respondent
18 ANDREW A. LEWIS (hereinafter referred to as "Respondent"),
19 acting in pro per, and the Complainant, acting by and through
20 Michael B. Rich, Counsel for the Department of Real Estate, as
21 follows for the purpose of settling and disposing of the
22 Accusation filed on October 19, 2006, in this matter
23 (hereinafter "the Accusation"):

24 1. All issues which were to be contested and all
25 evidence which was to be presented by Complainant and
26 Respondent at a formal hearing on the Accusation, which hearing
27 was to be held in accordance with the provisions of the
Administrative Procedure Act (APA), shall instead and in place

H-9724 SF

ANDREW A. LEWIS

1 thereof be submitted solely on the basis of the provisions of
2 this Stipulation and Agreement.

3 2. Respondent has received, read and understands the
4 Statement to Respondent, the Discovery Provisions of the APA
5 and the Accusation filed by the Department of Real Estate in
6 this proceeding.

7 3. On November 1, 2006, Respondent filed a Notice of
8 Defense pursuant to Section 11505 of the Government Code for
9 the purpose of requesting a hearing on the allegations in the
10 Accusation. Respondent hereby freely and voluntarily withdraws
11 said Notice of Defense. Respondent acknowledges that
12 Respondent understands that by withdrawing said Notice of
13 Defense Respondent will thereby waive Respondent's right to
14 require the Commissioner to prove the allegations in the
15 Accusation at a contested hearing held in accordance with the
16 provisions of the APA and that Respondent will waive other
17 rights afforded to Respondent in connection with the hearing
18 such as the right to present evidence in defense of the
19 allegations in the Accusation and the right to cross-examine
20 witnesses.

21 4. Respondent, pursuant to the limitations set forth
22 below, hereby admits that the factual allegations in the
23 Accusation pertaining to Respondent are true and correct and
24 stipulates and agrees that the Real Estate Commissioner shall
25 not be required to provide further evidence of such
26 allegations.

27 5. It is understood by the parties that the Real

1 Estate Commissioner may adopt the Stipulation and Agreement as
2 his decision in this matter, thereby imposing the penalty and
3 sanctions on Respondent's real estate license and license
4 rights as set forth in the "Order" below. In the event that
5 the Commissioner in his discretion does not adopt the
6 Stipulation and Agreement, it shall be void and of no effect,
7 and Respondent shall retain the right to a hearing and
8 proceeding on the Accusation under all the provisions of the
9 APA and shall not be bound by any admission or waiver made
10 herein.

11 6. This Stipulation and Agreement shall not
12 constitute an estoppel, merger or bar to any further
13 administrative or civil proceedings by the Department of Real
14 Estate with respect to any matters which were not specifically
15 alleged to be causes for accusation in this proceeding.

16 DETERMINATION OF ISSUES

17 By reason of the foregoing stipulations, admissions
18 and waivers and solely for the purpose of settlement of the
19 pending Accusation without hearing, it is stipulated and agreed
20 that the following Determination of Issues shall be made:

21 I

22 The acts and omissions of Respondent ANDREW A. LEWIS
23 described in the Accusation are grounds for the suspension or
24 revocation of the licenses and license rights of Respondent
25 under the provisions of Sections 4975 subsection (a) (1), (a) (2)
26 and (c) of the Financial Code and Section 10176(i), 10177(j)
27 and 10177(g) of the Business and Professions Code.

ORDER

I

3 A. All licenses and licensing rights of Respondent
4 ANDREW A. LEWIS under the Real Estate Law are suspended for a
5 period of sixty (60) days from the effective date of this
6 Decision; provided, however, that sixty (60) days of said
7 suspension shall be stayed for two (2) years upon the following
8 terms and conditions:

9 1. Respondent shall obey all laws, rules and
10 regulations governing the rights, duties and responsibilities of
11 a real estate licensee in the State of California; and

12 2. That no final subsequent determination be made,
13 after hearing or upon stipulation, that cause for disciplinary
14 action occurred within two (2) years of the effective date of
15 this Decision. Should such a determination be made, the
16 Commissioner may, in his discretion, vacate and set aside the
17 stay order and reimpose all or a portion of the stayed
18 suspension. Should no such determination be made, the stay
19 imposed herein shall become permanent.

20
21 July 11, 2007
~~DATED~~

michael b. rich
MICHAEL B. RICH, Counsel
Department of Real Estate

* * *

25 I have read the Stipulation and Agreement and its
26 terms are understood by me and are agreeable and acceptable to
27 me. I understand that I am waiving rights given to me by the

1 California Administrative Procedure Act (including but not
2 limited to Sections 11506, 11508, 11509, and 11513 of the
3 Government Code), and I willingly, intelligently, and
4 voluntarily waive those rights, including the right of requiring
5 the Commissioner to prove the allegations in the Accusation at a
6 hearing at which I would have the right to cross-examine
7 witnesses against me and to present evidence in defense and
8 mitigation of the charges.

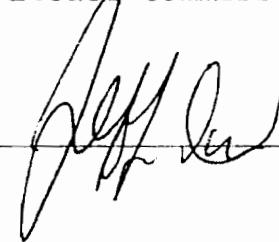
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10 7/6/07
11 DATED


12 ANDREW A. LEWIS
13 Respondent

14 The foregoing Stipulation and Agreement is hereby
15 adopted by me as my Decision in this matter as to Respondent
16 ANDREW A. LEWIS and shall become effective at 12 o'clock noon on
17 AUG 23, 2007.

18 IT IS SO ORDERED 7-26, 2007.

19
20 JEFF DAVI

21 Real Estate Commissioner


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H-9724 SF

ANDREW A. LEWIS